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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN STEVEN OLAUSEN,

Plaintiff,

v.

GENE YUP, *et al.*,

Defendants.

Case No. 3:15-cv-00539-MMD-WGC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 58) (“R&R” or “Recommendation”) relating to Defendant Gene Yup’s Motion for Summary Judgment (“Motion”) (ECF No. 44). Plaintiff had until September 27, 2017, to object to the R&R. To date, no objection to the R&R has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).


9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Cobb's Recommendation. The Magistrate
11 Judge found that Plaintiff has failed to exhaust his administrative remedies on his single
12 Eighth Amendment claim of deliberate indifference to a medical need (ECF No. 58). For
13 this reason, the Magistrate Judge recommends granting summary judgment in favor of
14 Defendant Dr. Yup. Upon reviewing the Recommendation and the briefs relating to
15 Defendant's Motion, the Court agrees with the Magistrate Judge and therefore adopts
16 the R&R in full.

17 It is therefore ordered, adjudged and decreed that the Report and
18 Recommendation of Magistrate Judge William G. Cobb (ECF No. 58) is accepted and
19 adopted in its entirety.

20 It is ordered that Defendant Gene Yup's Motion for Summary Judgment (ECF No.
21 44) is granted.

22 It is further order that the Clerk of Court enter judgment accordingly and close this
23 case.

24 DATED THIS 23rd day of October 2017.

25
26 
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE